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**MAR 28 2007**

**OFFICE OF PETITIONS**

In re Application of  
James R. Gallivan, et al.  
Application No. 10/693,125  
Filed: October 24, 2003  
Attorney Docket No. PD-03W068

ON PETITION

This is a decision in response to the petition, filed September 26, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gregory J. Gorrie appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Gorrie desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 17, 2006. A Notice of Abandonment was mailed on September 12, 2006. On September 26, 2006, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1500.00; and (3) an adequate statement of unintentional delay<sup>1</sup>.

Accordingly, the petition is **GRANTED**.

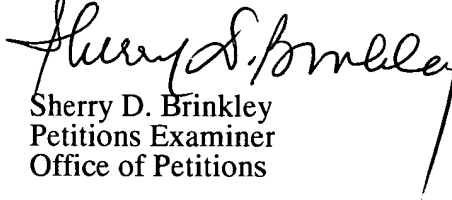
Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the

<sup>1</sup> 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

maximum time period set by statute. The extension of time submitted August 21, 2006 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., May 18, 2006. Since no extension of time fees are due on a petition for revival, the extension fees submitted after abandonment are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3742 for consideration of the amendment filed September 26, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

cc: GREGORY J. GORRIE  
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